



Australian Capital Territory

## **Supreme Court Rules<sup>1</sup> (Amendment)**

**Subordinate Law No. 11 of 1996<sup>2</sup>**

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We, Judges of the Supreme Court, make the following Rules of Court under section 36 of the *Supreme Court Act 1933*.

Dated 18 June 1996.

J F GALLOP  
Acting Chief Justice

T J HIGGINS  
Judge

J E CIRCOSTA  
Deputy Registrar

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### **Commencement**

1. These Rules commence on the day on which they are notified in the *Gazette*.

### **Principal Rules**

2. In these Rules, “Principal Rules” means the Supreme Court Rules.

### **Interpretation**

3. Rule 1 of Order 72 of the Principal Rules is amended—

- (a) by omitting from the definition of “Office of the Registrar” or “Registrar’s office” in subrule (1) “and Administrations, or the Acting Registrar of Probates and Administrations”;
- (b) by omitting from the definition of “The Act” in subrule (1) “-1937, and if that Act is amended, includes that Act as amended”;
- (c) by inserting in subrule (2) “or the Third Schedule” after “Part”;  
and
- (d) by adding at the end the following subrule:

“(3) In this Part, a reference to a form by number is to be read as a reference to the form so numbered in the Third Schedule.”.

### **Notice of intended application for representation**

4. Rule 3 of Order 72 of the Principal Rules is amended by omitting subrule (1) and substituting the following subrules:

“(1) A notice of intended application for probate of the will of a deceased person shall be in accordance with Form 1.

“(1A) A notice of intended application for letters of administration with the will annexed of the estate of a deceased person shall be in accordance with Form 2.

“(1B) A notice of intended application for letters of administration of the estate of a deceased person shall be in accordance with Form 2A.”.

### **Substitution**

5. Rules 4, 5 and 6 of Order 72 of the Principal Rules are repealed and the following rules substituted:

### **Notice of intended application for reseal of foreign grant**

“4. A notice of intended application for the reseal of a foreign grant of representation shall be in accordance with Form 3.

**Form of application**

“5. (1) An application for representation may—

- (a) be made through a solicitor or personally by a person entitled to a grant of administration; and
- (b) unless the Court otherwise orders, be made *ex parte*.

“(2) An application for probate of the will of a deceased person shall be in accordance with Form 3A.

“(3) An application for letters of administration with the will annexed of the estate of a deceased person shall be in accordance with Form 3B.

“(4) An application for letters of administration of the estate of a deceased person shall be in accordance with Form 3C.

“(5) An application for the reseal of a foreign grant of representation shall be in accordance with Form 3D.

**Application for probate—supporting affidavits**

“6. (1) An application for probate of the will of a deceased person shall be accompanied by affidavits in accordance with Forms 3E and 3H.

“(2) The will shall be signed in the margin by the applicant for probate and by the person before whom the affidavit in accordance with Form 3E is sworn.”.

**Substitution**

6. Rule 12 of Order 72 of the Principal Rules is repealed and the following rule substituted:

**Application for administration with will annexed—supporting affidavits**

“12. (1) An application for letters of administration with the will annexed of the estate of a deceased person shall be accompanied by affidavits in accordance with Forms 3F and 3H.

“(2) The will shall be signed in the margin by the applicant and by the person before whom the affidavit in accordance with Form 3F is sworn.”.

**Substitution**

7. Rule 14 of Order 72 of the Principal Rules is repealed and the following rule substituted:

**Application for administration—supporting affidavits**

“14. (1) An application for letters of administration of the estate of a deceased person shall be accompanied by affidavits in accordance with Forms 3G and 3H.

“(2) An affidavit in accordance with Form 3G shall have annexed to it such birth, death, marriage and other certificates as tend to support the statements made in the affidavit.”.

**Insertion**

**8.** After rule 69 of Order 72 of the Principal Rules the following rule is inserted in Part 4:

**Grants of representation**

“70. (1) A grant of probate of the will of a deceased person shall be in accordance with Form 16.

“(2) A grant of letters of administration with the will annexed of the estate of a deceased person shall be in accordance with Form 17.

“(3) A grant of letters of administration of the estate of a deceased person shall be in accordance with Form 18.

“(4) A reseal of a foreign grant of administration shall be in accordance with Form 19.”.

**Third Schedule**

**9.** The Third Schedule to the Principal Rules is amended—

- (a) by omitting Forms 1 to 3 (inclusive) and substituting the forms set out in Part I of the Schedule to these Rules; and
- (b) by adding at the end the forms set out in Part II of the Schedule to these Rules.

**Formal amendments**

**10.** The following provisions of Order 72 of the Principal Rules are amended by omitting “in the Third Schedule” (wherever occurring):

Rule 30, subrules 31 (1), 39 (1), 52 (1) and 60 (2) and rules 61, 62, 63 and 69.

**SCHEDULE**

Rule 9

**PART I**

FORM 1

NOTICE OF INTENDED APPLICATION FOR PROBATE

O. 72 r. 3

IN THE SUPREME COURT OF  
THE AUSTRALIAN CAPITAL  
TERRITORY

PROBATE JURISDICTION

In the Estate of *(name)*, late of *(last address,*  
*occupation)*, deceased

Application will be made not earlier than 14 days after the publication of this notice that probate of the will dated *(date)* \*[and codicil/s dated *(date/s)*] of the abovenamed deceased be granted to *(name/s)*, the executor/s named in the will \*[and codicil/s].

All notices may be served at the address below.

Creditors of the estate of the deceased are required to send particulars of their claims to:

*(name of applicant or applicant's solicitor)*

*(address)*

*\*(Delete if inapplicable)*

FORM 2

O. 72 r. 3

NOTICE OF INTENDED APPLICATION FOR LETTERS OF ADMINISTRATION WITH WILL  
ANNEXED

*[Heading as in Form 1]*

In the Estate of *(name)*, late of *(last address,*  
*occupation)*, deceased

Application will be made not earlier than 14 days after the publication of this notice that letters of administration with the will dated *(date)* \*[and codicil/s dated *(date/s)*] annexed of the estate of the abovenamed deceased be granted to *(name)* for the reason that *(reason)*.

All notices may be served at the address below.

Creditors of the estate of the deceased are required to send particulars of their claims to:

*(name of applicant or applicant's solicitor)*

*(address)*

*\*(Delete if inapplicable)*

**SCHEDULE—continued**

FORM 2A

O. 72 r. 3

NOTICE OF INTENDED APPLICATION FOR LETTERS OF ADMINISTRATION

[Heading as in Form 1]

In the Estate of *(name)*, late of *(last address, occupation)*, deceased

Application will be made not earlier than 14 days after the publication of this notice that letters of administration of the estate of the abovenamed deceased be granted to *(name)*, \*[the *(relationship)* of the deceased].

All notices may be served at the address below.

Creditors of the estate of the deceased are required to send particulars of their claims to:

*(name of applicant or applicant's solicitor)*  
*(address)*

\*(Delete if inapplicable)

FORM 3

O. 72 r. 4

NOTICE OF INTENDED APPLICATION FOR RESEAL OF FOREIGN GRANT

[Heading as in Form 1]

In the Estate of *(name)*, late of *(last address, occupation)*, deceased

Application will be made not earlier than 14 days after the publication of this notice that \*[probate of the will/ letters of administration of the estate/ an order to collect and administer the estate] of the abovenamed deceased granted by *(name of court)* to *(name)* be sealed with the seal of this Court.

All notices may be served at the address below.

Creditors of the estate of the deceased are required to send particulars of their claims to:

*(name of applicant or applicant's solicitor)*  
*(address)*

\*(Delete whichever is inapplicable)

Supreme Court No. 11, 1996

**SCHEDULE**—continued

FORM 3A

O. 72 r. 5

APPLICATION FOR PROBATE

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

Application is hereby made to the Registrar that probate of the will dated (*date*) \*[and codicil/s dated (*date/s*)] of the abovenamed deceased be granted to (*name/s*), the executor/s named in the will \*[and codicil/s].

The address for service of all notices in this matter is (*address*).

Dated:

(*name of applicant or applicant's solicitor*)

\*(Delete if inapplicable)

FORM 3B

O. 72 r. 5

APPLICATION FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

Application is hereby made to the Registrar that letters of administration with the will dated (*date*) \*[and codicil/s dated (*date/s*)] annexed of the estate of the abovenamed deceased be granted to (*name*) for the reason that (*reason*).

The address for service of all notices in this matter is (*address*).

Dated:

(*name of applicant or applicant's solicitor*)

\*(Delete if inapplicable)

Supreme Court No. 11, 1996

**SCHEDULE**—continued

FORM 3C

O. 72 r. 5

APPLICATION FOR LETTERS OF ADMINISTRATION

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

Application is hereby made to the Registrar that letters of administration of the estate of the abovenamed deceased be granted to (*name*), \*[the (*relationship*) of the deceased] \*[and that the requirement for an administration bond be dispensed with in respect of \*[a portion of] the estate].

The address for service of all notices in this matter is (*address*).

Dated:

(*name of applicant or applicant's solicitor*)

\*(Delete if inapplicable)

FORM 3D

O. 72 r. 5

APPLICATION FOR RESEAL OF FOREIGN GRANT

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

Application is hereby made to the Registrar that \*[probate of the will/ letters of administration of the estate/ an order to collect and administer the estate] of the abovenamed deceased granted by (*name of court*) to (*name*) be sealed with the seal of this Court.

The address for service of all notices in this matter is (*address*).

Dated:

(*name of applicant or applicant's solicitor*)

\*(Delete whichever is inapplicable)



**SCHEDULE**—continued

FORM 3E

O. 72 r. 6

AFFIDAVIT OF APPLICANT FOR PROBATE

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

- 1 The document dated (*date*) signed in the margin by me and by the person before whom this affidavit is sworn is, I believe, the last will of the abovenamed deceased.
- 2 I am \*[the/an] executor named in the will and I have attained the age of 18 years.
- 3 I believe that the will has not been revoked and I am not aware of the existence of any other document purporting to embody the testamentary intentions of the deceased \*[except for (*description of document*)].
- 4 My means of identifying the will are (*means of identification*).
- 5 The attesting witnesses to the will are (*name*) and (*name*).
- 6 \*[The other executor/s named in the will \*[is/are] (*name/s and, if known, address/es*).
- 7 \*[The reason/s why the other executor/s named in the will \*[is/are] not applying for probate \*[is/are] (*reason/s*)].
- 8 The deceased died on (*date*).
- 9 I believe that the deceased is (*name as in certificate*) referred to in the certificate of registration of death annexed and marked "A".
- 10 The deceased \*[did/did not] marry after the will was made \*[namely, to (*name*) on (*date*)].
- 11 \*[The deceased's marriage to (*name*) was terminated after the will was made, namely, on (*date*)].
- 12 \*[The deceased had attained the age of 18 years when the will was made./ The will was made in reliance on section 8 of the *Wills Act 1968*.]
- 13 The deceased \*[left/did not leave] property within the Australian Capital Territory.
- 14 \*\*[I believe that the deceased considered that \*[his/her] domicile was in the Australian Capital Territory. The reason for my belief is (*reason*).]
15. An inventory of all property of the deceased of which I am presently aware is annexed and marked "B". I will disclose to the Court any other property of the deceased which comes to my notice.
- 16 The estate has a gross value of \$ (*amount*).
- 17 If I am granted probate of the will of the deceased I will administer the estate according to law and if required I will give a true account of my administration of the estate to the Registrar.

**SCHEDULE**—continued

18 Notice of intention to make this application was published on *(date)* in the *(name)* which is a daily newspaper published and circulating within the Australian Capital Territory. A copy of the notice as published is annexed and marked “C”.

SWORN at )  
Before me )

*\*(Delete if, or whichever is, inapplicable)*

*\*\* (Delete if deceased left property within the Australian Capital Territory)*

ANNEXURE “B”

INVENTORY OF PROPERTY

of the estate of *(name)* of *(last address, occupation)*, deceased

<u>Description</u>	<u>Estimated or known value</u>
<i>(description sufficient to identify property)</i>	\$ <i>(amount)</i> <i>(total)</i>

FORM 3F

O. 72 r. 12

AFFIDAVIT OF APPLICANT FOR ADMINISTRATION WITH WILL ANNEXED

*[Heading as in Form 1]*

No. P of 19 .

In the Estate of *(name)*, late of *(last address, occupation)*, deceased

On *(date)* I, *(name)* of *(address)* say on oath:

- 1 The document dated *(date)* signed in the margin by me and by the person before whom this affidavit is sworn is, I believe, the last will of the abovenamed deceased.
- 2 I have attained the age of 18 years *\*[and I am (relationship) of the deceased]*.
- 3 I believe that the will has not been revoked and I am not aware of the existence of any other document purporting to embody the testamentary intentions of the deceased *\*[except for (description of document)]*.
- 4 My means of identifying the will are *(means of identification)*.
- 5 The attesting witnesses to the will are *(name)* and *(name)*.
- 6 *\*[The executor/s named in the will \*[is/are] (name/s and, if known, address/es).*
- 7 *\*[The reason/s why the executor/s named in the will \*[is/are] not applying for probate \*[is/are] (reason/s)].*
- 8 The deceased died on *(date)*.

**SCHEDULE—continued**

- 9 I believe that the deceased is (*name as in certificate*) referred to in the certificate of registration of death annexed and marked “A”.
- 10 The deceased \*[did/did not] marry after the will was made \*[namely, to (*name*) on (*date*)].
- 11 \*[The deceased’s marriage to (*name*) was terminated after the will was made, namely, on (*date*)].
- 12 \*[The deceased had attained the age of 18 years when the will was made./ The will was made in reliance on section 8 of the *Wills Act 1968*.]
- 13 The deceased \*[left/did not leave] property within the Australian Capital Territory.
- 14 \*\*[I believe that the deceased considered that \*[his/her] domicile was in the Australian Capital Territory. The reason for my belief is (*reason*).]
- 15 \*[I am a creditor of the estate. Particulars of the debt are \*[as follows: (*particulars of debt*)/ set out in the annexed document marked “B”.]
- 16 An inventory of all property of the deceased of which I am presently aware is annexed and marked “C”. I will disclose to the Court any other property of the deceased which comes to my notice.
- 17 The estate has a gross value of \$ (*amount*).
- 18 If I am granted administration of the estate of the deceased I will administer the estate according to law and if required I will give a true account of my administration of the estate to the Registrar.
- 19 Notice of intention to make this application was published on (*date*) in the (*name*) which is a daily newspaper published and circulating within the Australian Capital Territory. A copy of the notice as published is annexed and marked “D”.

SWORN at )  
Before me )

\*(Delete if, or whichever is, inapplicable)

\*\* (Delete if deceased left property within the Australian Capital Territory)

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ANNEXURE “C”  
INVENTORY OF PROPERTY  
of the estate of (*name*) of (*last address, occupation*), deceased

<u>Description</u>	<u>Estimated or known value</u>
( <i>description sufficient to identify property</i> )	\$ ( <i>amount</i> ) ( <i>total</i> )

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**SCHEDULE**—continued

FORM 3G

O. 72 r. 14

AFFIDAVIT OF APPLICANT FOR ADMINISTRATION

[*Heading as in Form 1*]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

- 1 The abovenamed deceased died on (*date*).
- 2 I have attained the age of 18 years \*[and I am (*relationship*) of the deceased].
- 3 I believe that the deceased is (*name as in certificate*) referred to in the certificate of registration of death annexed and marked “A”.
- 4 I believe that the deceased did not leave a will and I am not aware of the existence of any other document purporting to embody the testamentary intentions of the deceased \*[except for (*description of document*)].
- 5 The following steps have been taken to ascertain whether the deceased left a will or whether there is any other document purporting to embody the testamentary intentions of the deceased:  
(*description of searches, enquiries, etc.*)
- 6 At the time of \*[his/her] death the deceased was \*[not married/ married to (*name*)].
- 7 The deceased \*[left/did not leave] property within the Australian Capital Territory.
- 8 \*\*[I believe that the deceased considered that \*[his/her] domicile was in the Australian Capital Territory. The reason for my belief is (*reason*).]
- 9 The following persons are entitled to share in the administration or distribution of the estate:  
(*in respect of each such person—name, address, age, relationship to the deceased and entitlement—supporting certificates or other documents to be annexed*)
- 10 \*[I am a creditor of the estate. Particulars of the debt are \*[as follows: (*particulars of debt*)/ set out in the annexed document marked “B”.]
- 11 I am not an undischarged bankrupt and I have not assigned or encumbered my interest in the estate.
- 12 An inventory of all property of the deceased of which I am presently aware is annexed and marked “C”. I will disclose to the Court any other property of the deceased which comes to my notice.
- 13 The estate has a gross value of \$ (*amount*).
- 14 If I am granted administration of the estate of the deceased I will administer the estate according to law and if required I will give a true account of my administration of the estate to the Registrar.
- 15 Notice of intention to make this application was published on (*date*) in the (*name*) which is a daily newspaper published and circulating within the Australian Capital Territory. A copy of the notice as published is annexed and marked “D”.

Supreme Court No. 11, 1996  
**SCHEDULE**—continued

SWORN at )  
Before me )

\*(Delete if, or whichever is, inapplicable)

\*\* (Delete if deceased left property within the Australian Capital Territory)

ANNEXURE "C"

INVENTORY OF PROPERTY

of the estate of (name) of (last address, occupation), deceased

<u>Description</u>	<u>Estimated or known value</u>
(description sufficient to identify property)	\$ (amount) (total)

FORM 3H

O. 72 r. 6, 12 and 14

AFFIDAVIT OF SEARCH

[Heading as in Form 1]

No. P of 19 .

In the Estate of (name), late of (last address,  
occupation), deceased

On (date) I, (name) of (address) say on oath:

I have searched in the Office of the Registrar of this Court today and find as follows:

- 1 No caveat against the application for the grant of \*[probate of the will of/ administration of the estate of] the abovenamed deceased has been lodged.
- 2 No application for the grant of \*[probate of the will of/ administration of the estate of] the abovenamed deceased has been made to the Court or the Registrar of Probates.
- 3 \*[Probate of the will of/ Administration of the estate of] the abovenamed deceased has not been granted by the Court or the Registrar of Probates.

SWORN at )

Before me )

\*(Delete whichever is inapplicable)

**SCHEDULE**—continued

**PART II**

FORM 16

O. 72 r. 70

**GRANT OF PROBATE**

[Heading as in Form I]

No. P of 19 .

In the Estate of (*name*), late of (*last address, occupation*), deceased

**PROBATE**

PROBATE of the will dated (*date*) \*[and codicil/s dated (*date/s*)] of the abovenamed deceased, \*[a true copy/ true copies] of which \*[is/are] annexed, is granted to (*name/s*), the executor/s named in the will \*[and codicil/s].

Deceased died on (*date*).

Estate sworn under (\$ *value*).

Dated:

By the Court

Registrar

\*(Delete if, or whichever is, inapplicable)

FORM 17

O. 72 r. 70

**GRANT OF LETTERS OF ADMINISTRATION WITH WILL ANNEXED**

[Heading as in Form I]

No. P of 19 .

In the Estate of (*name*), late of (*last address, occupation*), deceased

**LETTERS OF ADMINISTRATION WITH WILL ANNEXED**

LETTERS OF ADMINISTRATION with the will dated (*date*) \*[and codicil/s dated (*date/s*)] annexed of the estate of the abovenamed deceased, \*[a true copy/ true copies] of which \*[is/are] annexed, are granted to (*name*).

Deceased died on (*date*).

Estate sworn under (\$ *value*).

Dated:

By the Court

Registrar

\*(Delete if, or whichever is, inapplicable)

FORM 18

O. 72 r. 70

Supreme Court No. 11, 1996

**SCHEDULE**—continued

GRANT OF LETTERS OF ADMINISTRATION

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

LETTERS OF ADMINISTRATION

LETTERS OF ADMINISTRATION of the estate of the abovenamed deceased are granted to (*name*).

Deceased died on (*date*).

Estate sworn under (\$ *value*).

Dated:

By the Court

Registrar

FORM 19

O. 72 r. 70

RESEAL OF FOREIGN GRANT

[Heading as in Form 1]

No. P of 19 .

In the Estate of (*name*), late of (*last address*,  
*occupation*), deceased

RESEAL OF \*[PROBATE/ LETTERS OF ADMINISTRATION/  
ORDER TO COLLECT AND ADMINISTER]

\*[PROBATE of the will/ LETTERS OF ADMINISTRATION of the estate/ ORDER to collect and administer the estate] of the abovenamed deceased granted by (*name of court*) to (*name*), a true copy of which is annexed, is SEALED with the seal of this Court.

Deceased died on (*date*).

Estate sworn under (\$ *value*).

Dated:

By the Court

Registrar

\*(Delete whichever is inapplicable)

*Supreme Court No. 11, 1996*

## **NOTES**

### **Principal Rules**

1. Reprinted as at 31 January 1996. See also Subordinate Law Nos. 4 and 10, 1996.

### **Notification**

2. Notified in the ACT Gazette on 28 June 1996.

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