

OATH OF ADMINISTRATOR WITH WILL ANNEXED

SUPREME COURT OF SOUTH AUSTRALIA
TESTAMENTARY CAUSES JURISDICTION

In the Estate of **[FULL NAME OF DECEASED]** (Deceased)

[I / We], [full name, address, postcode and occupation of deponent(s)], [swear on oath / do truly and solemnly affirm] that:

- 1 [I / We] believe the paper writing [or if more than one testamentary document, paper writings] now produced to and marked by [me / us] to contain the last will and testament [and codicil or two codicils or as the case may be] ("the will") of [full name of deceased] late of [address and postcode] deceased ("the deceased").
- 2 [Full name of executor as described in the will] [relationship to the deceased (if applicable)] the executor as described in the will [died during the lifetime of the testator or survived the deceased and is since died without having proved the will] [or the deceased did not in the will appoint an executor or the executor has renounced] [or as the case may be].
- 3 [I am / We are] the [insert the relationship (if any) to the deceased] and [the residuary beneficiary / one of the residuary beneficiaries / as the case may be] named in the will.
- 4 [I / We] will:
 - (a) collect, get in and administer according to law the estate of the deceased;
 - (b) if required to do so by the Court, produce to the Court a full statement and account of [my / our] administration of the estate;
 - (c) if required to do so by the Court, deliver up to the Court any prior grant that may have issued in this action;
 - (d) deliver at the office of Public Trustee of the State of South Australia within six calendar months from the date of administration being granted to [me / us] a statement and account verified by [my / our] declaration of all the estate of the deceased and of the administration of the estate.
- 5 The deceased died at [suburb] [postcode] on [date] aged [number] years.
- 6 The deceased died possessed of assets in the State of South Australia as disclosed on the Electronic System.

[Sworn/Affirmed] by the abovenamed deponent at [place and postcode] on [date].

.....
[signature of deponent]

Form PROB27

before me

.....
[signature of authorised witness]
[print name of witness]
[print title of authorised witness]
[ID number of witness]

Notes

- 1 Where the applicant's title to the grant is dependent upon the revocation pursuant to section 19(1) of the *Succession Act 2023* (SA) of the executorship and/or beneficial interest of the testator's former spouse or partner or upon the operation of the section being excluded, then refer to the modifications of the form of oath below.
- 2 The oath must clear off other persons having a prior entitlement to the grant – see rules 356.2 and 356.3 of Chapter 25 of the *Uniform Civil Rules 2020*.

Modifications to Form PROB27

- (a) ***Oath of administrator where the applicant's title to the grant as one of the residuary beneficiaries substituted in the will is dependent upon the application of section 19(1) of the Succession Act 2023 (SA) (e.g. the testator's former spouse or partner having been named the executor and instituted residuary beneficiary named in the will)***

[Heading]

I, [full name, address, postcode and occupation of deponent], [swear on oath / do truly and solemnly affirm] that:

- 1 I believe the paper writing [complete as in Form PROB27].
- 2 The appointment of [full name of the former spouse] the former spouse of the deceased as the executor as described in the will and the instituted residuary beneficiary named in the will has been revoked pursuant to section 19(1) of the *Succession Act 2023* (SA) the marriage between the testator and [full name of the former spouse] having been dissolved by order of the Federal Circuit and Family Court of Australia [or as the case may be] made on [date]. A true copy of the order is annexed and marked "A".

OR

- 2 The appointment of [full name] the former partner of the deceased an executor as described in the will has ended under section 13(1) of the *Relationships Register Act 2016* (SA) ("the Act"). A copy of the Certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the Act recording the event or entry on the Certificate that ended the registered relationship is annexed and marked "A".
- 3 I am one of the residuary beneficiaries substituted in the will.
- 4 I will: [complete as in Form PROB27].

- (b) ***Oath of administrator where the marriage or registered relationship of the testator has ended and the former spouse or partner has been named residuary beneficiary and section 19(2) of the Succession Act 2023 (SA) applies***

[Heading]

I, [full name, address, postcode and occupation of deponent], [swear on oath / do truly and solemnly affirm] that:

Form PROB27

- 1 I believe the paper writing *[complete as in Form PROB27]*.
- 2 *[Full name of executor as described in the will] [relationship to the deceased (if applicable)]* the executor as described in the will died in the lifetime of the deceased *[or as the case may be]*.
- 3 I am the former *[spouse / partner]* of the deceased and the residuary beneficiary named in the will.
- 4 The marriage between the deceased and myself was dissolved by order of the Federal Circuit and Family Court of Australia *[or as the case may be]* made on *[date]*. A true copy of the order is annexed and marked "A" but the deceased by codicil dated *[date]* affirmed the will showing no intention of revoking my beneficial entitlement to property under the will.*

OR

- 4 The appointment of *[full name]* the former partner of the deceased an executor as described in the will has ended under section 13(1) of the *Relationships Register Act 2016* (SA) ("the Act"). A copy of the Certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the Act recording the event or entry on the Certificate that ended the registered relationship is annexed and marked "A" but the deceased by codicil dated *[date]* affirmed the will showing no intention of revoking my beneficial entitlement to property under the will.
- 5 I will: *[complete as in Form PROB27]*.

***NB** The oath must disclose such facts as are necessary to exclude the operation of the section.

(c) Oath of administrator where the grant is taken by the legal personal representative of a deceased person who is entitled to the whole of the estate

[Heading]

I, *[full name, address, postcode and occupation of deponent]*, *[swear on oath / do truly and solemnly affirm]* that:

- 1 I believe the paper writing *[complete as in Form PROB27]*.
- 2 *[Full name of executor as described in the will] [relationship to the deceased (if applicable)]* the executor as described in the will and the residuary beneficiary therein named survived the deceased by 28 days *[or as the case may be]* but died on *[date]* without having proved the will.
- 3 *[Probate of the will or Letters of Administration with the will annexed]* of *[full name of executor as described in the will]* deceased was granted by the Court to me the executor as described in *the will [or as the case may be]* on *[date]*.
- 4 I will: *[complete as in Form PROB27]*.