

## OATH OF ADMINISTRATOR WITHOUT WILL

SUPREME COURT OF SOUTH AUSTRALIA  
TESTAMENTARY CAUSES JURISDICTION

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

---

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

- 1 *[Full name of deceased]* late of *[address and postcode]* deceased died intestate *[clear off all persons having a prior entitlement to the grant in the manner provided in the table appearing in Practice Note 1 of 2024]*.
- 2 I am *[describe your relationship in the manner provided in the table appearing in Practice Note 2 of 2024]\**.
- 3 *[(If it is the case) The other persons entitled in distribution of the estate of the deceased [is / are] (use name and relationship to show entitlement)]*:

<i>[Name]</i>	<i>[Relationship]</i>
---------------	-----------------------
- 4 I 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 administration of the estate;
  - (c) 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 a statement and account verified by my declaration of all the estate of the deceased and of my administration of such 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]*

before me

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

## Form PROB28

### Note

- \* If a parent of the deceased is described as the “only” person entitled, evidence (death certificate or deposition of date of death) must be given as to the death of the other parent during the lifetime of the intestate.
- 1 For the description of a relationship refer to the *Succession Act 2023* (SA), Part 5 – section 101(1) Intestacy Interpretation.

### Modifications of Form PROB28

**(a) Oath for administration to surviving spouse or domestic partner where there are other persons entitled to share in the estate by virtue of section 105(1)(c)(i) and/or section 106(2) of the Act**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate.
- 2 I am the [surviving spouse / domestic partner] of the deceased and one of the persons entitled to share in the estate.
- 3 The other persons entitled in distribution of the estate of the deceased are:  

[Name]                      [Relationship]
- 4 I will: [complete as in Form PROB28].

**(b) Oath for administration to surviving spouse where the value of the intestate estate does not exceed the preferential legacy and there is no domestic partner entitled to share in the estate by virtue of section 106(2) of the Act but there are issue who may become entitled to share in the estate under section 105(1)(b) of the Act in the event of an accretion to the estate resulting in the value of the intestate estate exceeding the preferential legacy**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate.
- 2 I am the [surviving spouse] of the deceased and the only person now entitled to the estate of the deceased.
- 3 The other persons entitled in distribution of the estate of the deceased are:  

[Name]                      [Relationship]
- 4 I will: [complete as in Form PROB28].

### Note

- 1 “preferential legacy” is defined in section 105(2) of the *Succession Act 2023* (SA).

**(c) Oath for administration to surviving spouse who under section 105(1)(a) of the Act is entitled to the whole of the estate – there being no domestic partner entitled to share in the estate under section 106(2) of the Act**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate.
- 2 I am the surviving spouse of the deceased and the only person entitled to the estate of the deceased.
- 3 I will: [complete as in Form PROB28].

**(d) Oath for administration to domestic partner where the deceased is survived by a spouse and/or issue**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased (“the deceased”) died intestate.
- 2 By an order dated [date of order] made by the [Name of Court] under the *Family Relationships Act 1975* (SA), I was declared the domestic partner of the deceased as at the date of their death (a true copy of the sealed order being annexed and marked “A”).

OR

- 2 The Register of Births, Deaths and Marriages has registered the relationship under section 8(2) of the *Relationships Register Act 2016* (SA) (a true copy of the certificate issued by the Registrar of Births, Deaths and Marriages certifying the particulars of the entry of the registered relationship under section 21 of the *Relationships Register Act 2016* being annexed and marked “A”).
- 3 I am one of the persons entitled to share in the estate of the deceased.
- 4 The other persons entitled in distribution of the estate of the deceased are:  

[Name]	[Relationship]
--------	----------------
- 5 I will: [complete as in Form PROB28].

**(e) Oath for administration where the value of the intestate estate does not exceed the preferential legacy – child applies on renunciation of surviving spouse**

[Heading]

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

Form PROB28

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate leaving [name of surviving spouse / domestic partner] their surviving spouse and the only person now entitled to the estate who has renounced letters of administration of the estate of the deceased.
- 2 I am a child of the deceased and a person who may become entitled to share in the estate of the deceased in the event of an accretion thereto.
- 3 The other persons who may become entitled in distribution of the estate of the deceased are:  

[Name]                      [Relationship]
- 4 I will: [complete as in Form PROB28].

**Note**

- 1 “preferential legacy” is defined in section 105(2) of the *Succession Act 2023* (SA).

**(f) Oath for administration where the value of the intestate estate exceeds the preferential legacy – child applies on renunciation of surviving spouse**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate leaving [name of surviving spouse] their surviving spouse and one of the persons entitled to share in the estate of the deceased who has renounced letters of administration of the estate of the deceased.
- 2 There is no person adjudged under the *Family Relationships Act 1975* (SA), to have been a domestic partner of the deceased as at the date of their death.\*
- 3 I am a child of the deceased and one of the persons entitled to share in the estate of the deceased.
- 4 The other persons entitled in distribution of the estate of the deceased are:  

[Name]                      [Relationship]
- 5 I will: [complete as in Form PROB28].

**Notes**

- \* This disposition is required in order to clear off the prior entitlement of a domestic partner to the administration of the estate. Delete this deposition if there is a domestic partner who has renounced and substitute “domestic partner” for “surviving spouse” in paragraph numbered 1 of this modification.
- 1 “preferential legacy” is defined in section 105(2) of the *Succession Act 2023* (SA).

**(g) Oath for administration to child or other issue having beneficial interest**

[Heading]

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

Form PROB28

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate a without a surviving spouse or domestic partner and without any other person entitled in priority to share in their estate by virtue of any enactment.
- 2 I am a child of the deceased and [only person entitled to the estate / one of the persons entitled to share in the estate] of the deceased.

OR

- 2 I am a [grandchild] of the intestate being [the child] of [name of parent], [the child] of the intestate who died in the lifetime of the intestate) and [the only person entitled to the estate / one of the persons entitled to share in the estate] of [name of deceased] deceased.
- 3 [(IF this is the case] The other persons entitled in distribution of the estate of the deceased are:

[Name] [Relationship]

- 4 I will: [complete as in Form PROB28].

**Note**

- 1 Where the applicant's title to the administration depends upon establishing paternity the application must be supported by evidence of the claim to the relationship. Refer to section 7 of the *Family Relationships Act 1975* (SA).

**(h) Oath for administration to adopted child**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate without a surviving spouse or domestic partner and without any other person entitled in priority to share in their estate by virtue of any enactment.
- 2 By an order dated [date] made by [insert full name of the Court that made the order and its locality] under the *Adoption of Children Act 1967* (SA), [or as the case may be] I was duly adopted by the deceased and [name of other adopting individual] and that the said order is still subsisting, a certified extract under the hand and seal of the Registrar of Births, Deaths and Marriages relating to the adoption [or as the case may be] is annexed and marked "A".
- 3 I am a child of the deceased and [only person entitled to the estate / one of the persons entitled to share in the estate] of the deceased.
- 4 [(IF this is the case] The other persons entitled in distribution of the estate of the deceased are:

[Name] [Relationship]

- 5 I will: [complete as in Form PROB28].

**(i) Oath for administration to child where the deceased has died divorced**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate without a domestic partner a divorced person and without any other person entitled in priority to share in their estate by virtue of any enactment.
- 2 The marriage between the said [full name of deceased] deceased and [full name of surviving spouse] was dissolved by order of the Federal Court 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".
- 3 The deceased did not subsequently remarry or register a relationship under section 8(2) of the *Relationships Register Act 2016* (SA).
- 4 I am a child of the deceased and [the only person entitled to the estate / one of the persons entitled to share in the estate] of the deceased.
- 5 [If this is the case] The other persons entitled in distribution of the estate of the deceased are:

[Name] [Relationship]

- 6 I will: [complete as in Form PROB28].

**(j) Oath for administration to parent**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate without a spouse or domestic partner and without issue, or any other person entitled in priority to share in their estate by virtue of any enactment.
- 2 I am the parent of the deceased and [the only person entitled to the estate\* / [or where both parents of the deceased are living] one of the persons entitled to share in the estate] of the deceased.
- 2 [If this is the case] The other person entitled in distribution of the estate of the deceased is [full name of other parent of the deceased] the other parent of the deceased.
- 3 I will: [complete as in Form PROB28].

**Notes**

- \* If a parent of the deceased is described as the "only" person entitled, evidence (death certificate or deposition of date of death) must be given as to the death of the other parent during the lifetime of the intestate
- 1 If the deceased died intestate a divorced person then see paragraphs 2 and 3 in modification (i) above for the additional wording required in the oath.

- 2 Where the applicant's title to the administration depends upon establishing paternity, the application must be supported by evidence of the claim to the relationship. Refer to section 7 of the *Family Relationships Act 1975* (SA).

**(k) Oath for administration to sibling (brother or sister)**

[Heading]

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

- 1 [Full name of deceased] late of [address and postcode] deceased died intestate without a spouse or domestic partner\* and without issue or a parent, or any other person entitled in priority to share in their estate by virtue of any enactment.
- 2 I am a sibling of the deceased and [the only person entitled to the estate / one of the persons entitled to the estate / or as the case may be] of the deceased.
- 3 [If this is the case] The other persons entitled in distribution of the estate of the deceased are:

[Name]	[Relationship]
--------	----------------

- 4 I will: [complete as in Form PROB28].

**Note**

- \* If the deceased died intestate divorced see paragraphs 2 and 3 in modification (i) above for the additional wording required in the oath.