

OATH TO LEAD RE-SEAL OF OVERSEAS GRANT

SUPREME COURT OF SOUTH AUSTRALIA
TESTAMENTARY CAUSES JURISDICTION

**In the Estate of [NAME OF DECEASED (as described in the grant to
be re-sealed)] (Deceased)**

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

- 1 A grant of [probate of the will (and codicil or [number of codicils if more than one] codicils) / letters of administration with the will annexed of the estate / letters of administration of the estate / or as the case may be] of [name of deceased] late of [as in grant sought to be re-sealed] deceased who died at [location and postcode] on [date] aged [number] years was granted to me by [full name of Court that issued the grant sought to be re-sealed] on [date].
- 2 The deceased was at the date of death domiciled in [name of State or country overseas] within the jurisdiction of the Court that issued the overseas grant now sought to be re-sealed [the last 16 words to be struck out if inapplicable].
- 3 The deceased died possessed of assets in the State of South Australia as disclosed on the Electronic System.

[See notes to this Form for additional descriptions required for various circumstances]

[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]

Notes

- 1 If the deceased was not at the date of death domiciled within the State/Country in which the original overseas grant was made, the oath must address rule 356.32(4) of Chapter 25 of the *Uniform Civil Rules 2020*.
- 2 If an executor predeceased the testator or died since the death of the testator without having taken a grant of probate or has renounced probate it must be recited in the oath.
- 3 If the grant was made to two or more executors one of whom has since died the death of the deceased executor must be recited in the oath.
- 4 If leave has been reserved in the overseas grant to another executor, to apply for probate the following words must be inserted at the end of paragraph 1 of the above oath:

Form PROB30

“Leave being reserved for [*name of other executor*] the other executor to apply for probate”,

and the following additional deposition must be made in the oath:

“2 That no grant of double probate has been made by the Supreme Court of [*State / Country*] to the aforesaid executor to whom leave was reserved to apply for probate.”

- 5 An application to re-seal a grant of probate made after the death of the executor to whom it has been granted by his executor will be accepted provided that probate of the will of the deceased executor has been granted or re-sealed in South Australia. The oath in this instance must fully disclose all the events that have happened so that the title of the executor of the deceased executor to re-seal his testator's grant is thereby established.
- 6 The assets and liabilities to be disclosed on the Electronic System at the time of the application and subsequently must comply with section 71 of the *Succession Act 2023* (SA) and rule 356.17(4) of Chapter 25 of the *Uniform Civil Rules 2020*.

If the deceased person was not domiciled in Australia at the date of death, then disclosure is only required for all of the assets of the deceased located within Australia and any liabilities that are charged on those assets or arose in Australia – refer section 71(5) and section 71(6) of the *Succession Act 2023* (SA).

Modification of Form PROB30

(a) ***Oath by attorney of executor or administrator authorised to apply for the sealing of the overseas grant***

[*Heading*]

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

- 1 A grant of probate of the will [*or as the case may be*] of [*name of deceased (name as in the overseas grant to be re-sealed)*] late of [*as in grant sought to be re-sealed*] deceased who died at [*location*] on [*date*] aged [*number*] years was granted to [*insert name of the person to whom grant was made*] at [*location of Court*] on [*date*] (“the overseas grant”).
- 2 The deceased was at the date of death domiciled in [*name country overseas*] within the jurisdiction of the Court that issued the overseas grant now sought to be re-sealed [*the last 16 words to be struck out if inapplicable*].
- 3 I am the attorney appointed by [*name of the person to whom the grant was made*] (which appointment has not to the best of my knowledge information and belief been revoked) and am duly authorised to apply to this Court for the re-sealing of the overseas grant.
- 4 To the best of my knowledge the deceased died possessed of assets in the State of South Australia as disclosed on the Electronic System.

Notes

- 1 If there is more than one executor named in the grant to be re-sealed, administration will not be granted to the person's attorney without notice to the other executors (if any) – see rule 356.22(2) of Chapter 25 of the *Civil Uniform Rules 2020*.
- 2 A copy certified by a lawyer of the General and Enduring Power of Attorney must be deposited with the application.

Form PROB30

- 3 For a form of power of attorney, see Form PROB49 General and Enduring Power of Attorney.